

Ensuring better control of the EU's external fishing fleet

The need for a public register of information on European Union vessels fishing outside EU waters

Introduction

The Environmental Justice Foundation (EJF), Oceana, The Pew Charitable Trusts and WWF are working together to secure the harmonised and effective implementation of the European Union's (EU) Regulation to end illegal, unreported and unregulated (IUU) fishing¹.

The EU has been active in fighting IUU fishing at a global level through its innovative and ambitious IUU Regulation, which came into force in 2010. It has also strengthened the standards applying to Union vessels operating both within and outside EU waters through the 2014² reform of the EU Common Fisheries Policy (CFP).

The legal framework governing the activities of the European external fishing fleet is a crucial part of the fight against IUU fishing and is currently being revised³. A robust new external fishing fleet regulation will bring it in line with the CFP and the EU's global policies to prevent, deter and eliminate IUU fishing, representing a major step forward in improving international fisheries governance⁴.

The revision of the EU's external fishing fleet regulation is a critical opportunity to ensure that all of the Union's fishing vessels, whether operating within or outside Union waters, are subject to common standards and requirements. This will make competition fair and secure more transparent, accountable and sustainable fisheries practice.



European vessels at port, Indian Ocean. © Pew Charitable Trusts

The EU's external fishing fleet – the need for greater transparency

The EU currently pays around €145 million annually from public funds⁵ for access to fisheries for EU vessels beyond EU waters. While aggregate information on fishing activities under these (Sustainable) Fisheries Partnership Agreements or SFPAs is made public – including on fishing opportunities, compensation paid and number/tonnage of EU vessels involved – there is currently no requirement to publish information on which EU vessels benefit from this funding.

Taxpayer-funded SFPAs are only one type of arrangement that allows EU vessels to fish externally. Other types of agreement are completely opaque, as the current external fishing fleet regulation has no provision for a public register of EU vessels fishing overseas. As such, details of where vessels are authorised to fish, under what type of agreement and for which species are not open to public scrutiny. This has resulted in a lack of accountability and has seriously undermined the effective monitoring and oversight of all fishing activities of the European fleet.

A proposal for a new regulation governing the EU's external fishing fleet was released in December 2015 and is currently being considered by the European Council and Parliament⁶. The proposal includes the establishment of a register containing information on authorisations for EU fishing activities in non-EU waters⁷. The proposed register would make the following key information available to the public, whilst at the same time ensuring confidentiality of commercial data:

- (i) the name and flag of the vessel;
- (ii) the type of authorisation under which the vessel operates; and
- (iii) the authorised time and zone of fishing activity.

This would be provided for all fishing activities by EU vessels in non-EU waters, regardless of the type of agreement under which they take place⁸. Information would therefore be available for vessels operating under:

- (i) official EU agreements with coastal States for access to the surplus⁹ of their fisheries resources – SFPAs¹⁰;

¹ Council Regulation (EC) No. 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing.

² Regulation (EU) No. 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy.

³ The European Commission's (EC) proposal for a regulation on the sustainable management of external fishing fleets (2015/636) was published in December 2015 and will replace the current Fishing Authorisation Regulation (Council Regulation (EC) No. 1006/2008).

⁴ See Sustainable Development Goal 14 of the United Nations, which refers to effectively regulating harvesting and ending overfishing, IUU fishing and destructive fishing practices by 2020: <http://www.un.org/sustainabledevelopment/oceans/>

⁵ http://ec.europa.eu/fisheries/cfp/international/agreements/index_en.htm

⁶ This regulation on the sustainable management of external fishing fleets will replace the current legal

framework called the Fishing Authorisation Regulation (FAR) that has been in place since 2008. For further information see: <http://www.whofishesfar.org/case-studies/How-to-better-monitor-activities-of-the-EU-external-fishing-fleet>

⁷ See Art. 39 of the proposal COM(2015) 636 final.

⁸ Note that information would also be available on third-country vessels fishing in EU waters under bilateral agreements, e.g. vessels from Venezuela and Seychelles operating in the waters of French Guiana and Mayotte, as these are also covered under the proposal for a new external fleet regulation.

⁹ Surplus of allowable catch means the portion of the allowable catch that a coastal State does not harvest, which results in an overall exploitation rate for individual stocks that remains below levels at which stocks are capable of restoring themselves and the maintenance of populations of harvested species above desired levels based on the best available scientific advice.

¹⁰ http://ec.europa.eu/fisheries/cfp/international/agreements/index_en.htm

- (ii) reciprocal agreements for EU vessels to operate in the waters of Iceland, Norway and Faroe Islands¹¹;
- (iii) direct (private) and chartering agreements concluded between EU operators and coastal States, where no official EU agreement is in place;
- (iv) authorisations to fish in areas under the responsibility of Regional Fisheries Management Organisations (RFMOs)¹²; and
- (v) authorisations to fish on the high seas.

The proposed register of external fishing authorisation would represent a significant step forward in increasing transparency and accountability of EU fishing activities overseas, and in enhancing fair competition. It would also strengthen the EU’s efforts to combat IUU fishing through more transparent fisheries at a global level.

Indeed, the European Parliament has previously called on the European Commission to improve transparency through such a database, covering EU vessels operating externally under all fisheries agreements and including data on their activities and catches¹³.

Improving the availability of data on external fishing authorisations is consistent with a key principle of good governance set out in the CFP, namely the transparent handling of fisheries data and its availability to stakeholders¹⁴. Likewise, the Aarhus Convention establishes a right for the public to receive environmental information held by public authorities, and an obligation on public authorities to actively disseminate environmental information in their possession¹⁵. The influence of these principles can be seen in other areas of EU fisheries regulation, for example, the obligation on member states to publish information on companies benefiting from funding under the European Maritime and Fisheries Fund (EMFF)¹⁶. A logical extension of this would be the publication of information on beneficiaries of SFPAs funding.

Comprehensive data requirements by other international fisheries bodies

Most of the major RFMOs¹⁷, such as CCAMLR, ICCAT and WCPFC¹⁸, publish comprehensive information on vessels authorised to fish within their Convention areas, including on EU vessels (see Annex). While the level of information differs between the RFMOs, in general at least the following is made publicly available:

- flag of the fishing vessel and authorising country;
- name, tonnage and length of the vessel;
- vessel and/or gear type;
- registration number and IMO number, if available;

- details of the vessel owner and operator; and
- period of the authorisation.

A number of RFMOs also publish information on the target species that is the subject of the authorisation and details of any quotas allocated to vessels, if applicable. In many cases, historical information on the vessel, such as previous name and/or flag, is also published.

The proposed register of external fishing authorisations would bring together data published by RFMOs with information on all other activities of the EU fleet in non-EU waters. Currently, details of EU vessels fishing under other types of agreement are not made publicly available by the European Commission or by member states. Although SFPAs are supported by public funds, only the total number of licences for vessels fishing under each agreement, and the flag member state to which they are registered, are published on the Commission’s website¹⁹ or in SFPAs evaluation reports²⁰. This is a major gap, which limits the possibility for external scrutiny over the use of public funds.

Whofishesfar: Spotlight on the Need for Change

The website whofishesfar.org was launched in 2015, with the aim of improving transparency of the activities of the EU external fleet. Data on fishing authorisations granted under the current external fleet regulation – the 2008 Fishing Authorisation Regulation (FAR) – were obtained from the European Commission via an access to information request for the period 2008–2015. These data have been made available to the public for the first time ever via this website.

The data on whofishesfar.org highlight the extensive scale and reach of the EU’s external fleet, and the importance of transparency as a basis for oversight and accountability of the EU fishing industry.

However, a significant gap in the data on WhoFishesFar.org is the absence of information on private agreements concluded between EU operators and coastal States. As there is no centralised system to gather information on private agreements, the Commission has been unable to provide this information in response to the access to information request. The lack of transparency and other requirements for private agreements means that a large portion of the EU’s external fishing activity is not subject to any level of scrutiny. It is urgent that this gap is addressed in the revision of the external fleet regulation²¹.

Bringing fisheries transparency in to line with other extractive industries

There is increasing recognition of the importance of transparency as a basis for good governance and the sustainable use of all natural resources, particularly in the extractive industries and forestry sector.

The EU’s 2013 Accounting Directive introduced a requirement for large extractive and logging companies to report all material payments made to governments in the countries in which they operate²², which must be broken down by country and by project, and be made publicly available to all stakeholders. This obligation is expected to promote the adoption of the Extractive Industries Transparency Initiative (EITI), a voluntary global standard that aims to promote open and accountable resource management in countries rich in oil, gas, and mineral resources²³.

The push for a comprehensive public register of EU fishing vessels operating externally is the latest in a series of moves towards enhancing transparency as part of global fisheries reform efforts²⁴. Inspired by the EITI, the fisheries sector is developing a similar standard through the Fisheries

Transparency Initiative (FiTI), launched in 2015. The reporting requirements under the FiTI standard are currently being defined, but will likely include detailed information on access and fishing rights, unique vessel identifiers, vessel ownership and payments²⁵.



European purse seiners, Indian Ocean. © Pew Charitable Trusts

Revision of the EU’s external fleet regulation – an opportunity for change

The revision of the EU’s external fleet regulation represents a key opportunity for the EU to demonstrate global leadership on transparency and accountability within its fishing sector. A public register of authorisations for EU fishing activities overseas will support progress at the global level under the FiTI, while adhering to the principles of good governance set out in the EU’s CFP.

Comprehensive data on EU vessels fishing within RFMO-managed areas are already available in the public domain. A public register of external fishing authorisations would therefore raise transparency of other EU fishing activities to the same standard. This would facilitate the oversight of activities carried out under private agreements, for which there is currently very little assurance of legality and sustainability. It would also assist both EU flag States and the European Commission in meeting their duty of due diligence²⁶ in this domain.

To improve transparency and accountability of the EU’s external fleet, we consider it to be vital that:

- basic information on the vessel (name, flag), the type of authorisation, and the authorised time and zone of fishing activity is made publicly available in a register of external fishing authorisations; and
- the register includes this information for all fishing activities of EU vessels in external waters under any type of agreement, including private and charter.

In addition to the above elements outlined in the December 2015 proposal, the public register should also include:

- details of fishing opportunities and target fisheries, to further improve fisheries management both within and outside the EU;
- vessel IMO numbers²⁷ to facilitate the tracking of vessel activity and monitoring of compliance with applicable laws; and
- information on the beneficial ownership of EU vessels fishing externally to strengthen accountability and assist in the detection of linkages to IUU fishing²⁸.

¹¹ And vice versa.
¹² RFMOs are international organisations formed by countries with fishing interests in an area of ocean.
¹³ European Parliament draft resolution of 12 April 2016 on common rules in respect of application of the external dimension of the CFP, including fisheries agreements (2015/2091(INI)).
¹⁴ Article 3(k) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy.
¹⁵ Articles 4 and 5 of the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention).
¹⁶ http://ec.europa.eu/fisheries/contracts_and_funding/the_european_transparency_initiative/index_en.htm
¹⁷ RFMOs manage fish stocks in a specific geographical area or focus on particular species requiring regional management, for example, highly migratory species such as tuna.

¹⁸ Convention on the Conservation of Antarctic Living Resources (CCAMLR), International Commission for the Conservation of Atlantic Tunas (ICCAT), Western and Central Pacific Fisheries Commission (WCPFC).
¹⁹ http://ec.europa.eu/fisheries/cfp/international/agreements/index_en.htm
²⁰ See, for example, ex post and ex ante evaluation of the protocol to the Fisheries Partnership Agreement between the EU and the Republic of Mauritius: http://ec.europa.eu/fisheries/documentation/studies/mauritius-2016/doc/final-report_en.pdf
²¹ A call for increased transparency and standards for private agreements was made in a resolution of December 2015 by the Long Distance Advisory Council (LDAC), a consultative body made up of the European catching and processing industry, organisations of fisheries workers, and development and environment NGOs. A 2016 Resolution of the European Parliament also recognised the need to improve the transparency of private agreements, calling for key details to be made available to the public, including the identity of vessels and fishing activities.
²² Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings.
²³ See <https://beta.eiti.org/> and http://europa.eu/rapid/press-release_MEMO-13-541_en.htm.
²⁴ See <http://fisheriestransparency.org/about-the-initiative> for examples.
²⁵ See Preparatory Information for the 3rd Advisory Group meeting in Nouakchott, held on 4 February 2016: http://fisheriestransparency.org/wp-content/uploads/2016/02/FITI_3rdAGMeeting_Prepln-fo_20160130.pdf
²⁶ Advisory Opinion of the International Tribunal for the Law of the Sea (ITLOS), case 21, 2 April 2015: <https://www.itlos.org/en/cases/list-of-cases/case-no-21/>. The due diligence obligation means that flag States must take all necessary and appropriate measures to ensure compliance with regulations in the Exclusive Economic Zones (EEZs) of non-EU countries and to prevent their vessels from engaging in IUU fishing activities.

²⁷ The IMO number is a global unique vessel identification system set up by the International Maritime Organisation and administered by IHS Maritime and Trade. The IMO number is a permanent seven-digit number that stays with a vessel from construction through to disposal, regardless of any changes in the vessel’s flag or where it operates. IMO numbers are recognised as the most reliable and effective way of tracking a vessel’s history and monitoring compliance with applicable laws, yet are currently not required for vessels requesting an external fishing authorisation. Our recommendations for mandatory IMO numbers are set out here: http://www.whofishesfar.org/files/Case_Studies/Case_Study_FAR_ENG.pdf
²⁸ According to Article 18 of the International Plan of Action to Prevent, Deter and Eliminate IUU fishing (IPOA-IUU), States should, to the greatest extent possible, take measures or cooperate to ensure that nationals subject to their jurisdiction do not support or engage in IUU fishing. In this regard, they should cooperate to identify those nationals who are the operators or beneficial owners of vessels involved in IUU fishing. <http://www.fao.org/docrep/003/y1224e/y1224e00.htm>

Data published by RFMOs on vessels authorised to fish in their Convention areas*										
RFMO	Flag	Name	Tonnage	Length	Gear/ vessel type	IMO Number	Owner/ operator	Fishing opportunities/ target species	Authori- sation period	Vessel his- tory (name, flag, etc.)
CCAMLR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
CCSBT	✓	✓	✓	✓	✓	✓	✓		✓	✓
GFCM	✓	✓	✓	✓	✓	✓				
IATTC	✓	✓	✓	✓	✓	✓	✓			✓
ICCAT	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
IOTC	✓	✓	✓	✓	✓	✓	✓		✓	✓
SEAFO	✓	✓	✓	✓	✓	✓				
SPRFMO	✓	✓	✓	✓	✓	✓			✓	✓
WCPFC	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

Notes

* Data on vessels authorised to fish in the NAFO and NEAFC Convention areas were not publicly available at the time of writing.

Abbreviations

CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
CCSBT	Commission for the Conservation of Southern Bluefin Tuna
GFCM	General Fisheries Commission for the Mediterranean
IATTC	Inter-American Tropical Tuna Commission
ICCAT	International Commission for the Conservation of Atlantic Tunas
IOTC	Indian Ocean Tuna Commission
NAFO	Northwest Atlantic Fisheries Organization
NEAFC	North East Atlantic Fisheries Commission
SEAFO	South East Atlantic Fisheries Organisation
SPRFMO	South Pacific Regional Fisheries Management Organisation
WCPFC	Western and Central Pacific Fisheries Commission



European external fleet. © Pew Charitable Trusts

The Environmental Justice Foundation (EJF), Oceana, The Pew Charitable Trusts and WWF are working together to secure the harmonised and effective implementation of the EU Regulation to end illegal, unreported and unregulated (IUU) fishing.

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